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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

Vol. 10

January 26, 1993

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### House Week in Review

The House, by voice vote, gave 2nd and 3rd reading to 2 statewide bills. The first was H. 3143, sponsored by Representative Becky Meacham, which would require the state's public schools to set aside on a daily basis one minute for voluntary silent prayer. The second bill to achieve 2nd and 3rd reading was H. 3010, co-sponsored by Representative Carnell and several dozen other House members, which would require that appropriations in the annual appropriations act not exceed the state's base revenue estimate.

The House adopted several rules last week, including one which allows a committee chairman to offer a technical amendment to any bill which has been reported by his committee if he gives notice at the bill's second reading of his intention to offer an amendment at third reading. The House also debated a resolution which would have provided that the House not meet on Thursdays during the first 4 weeks of a session occurring in an odd-numbered year and meet on Wednesday afternoons instead of Wednesday mornings only during the first six weeks of sessions meeting in even-numbered years. After considerable debate, the House voted to table the resolution.

The House also took a brief pause last Thursday to honor Speaker Robert J. Sheheen on his 50th birthday, presenting the Speaker with a huge cake containing 50 candles. Some House members dressed in somber colors for the occasion, which featured a brief roasting of the Speaker.

STATE DOCUMENTS

STATE DOCUMENTS

**Legislative Update, January 26, 1993**

**Bills Introduced**

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The following bills were introduced in the House of Representatives last week. Not all the bills introduced in the House are featured here. The summaries are arranged according to the standing committee to which the legislation was referred.

**Agriculture, Natural Resources and Environmental Affairs**

Ginseng Plants (H. 3177, Rep. T. Alexander). This bill pertains to the regulation, protection, collection and sale of ginseng plants. The bill defines ginseng plants, dealers and other terms pertaining to the ginseng trade. The bill defines the ginseng harvest season as lasting from September 1 to April 1 and prohibits harvesting ginseng outside that season except when the plants are dug up from one's own land. A person collecting wild ginseng outside the harvest season would complete a form, available from ginseng dealers, indicating legal collection of ginseng from one's own land before selling the ginseng. Anyone collecting ginseng during the harvest season but wishing to sell ginseng outside that season would complete a record of harvest season collection and have it signed by an inspector from the State Agriculture



Department before the end of the harvest season. Ginseng dealers would obtain permits from the Agriculture Department before purchasing the plant, with permits valid from July 1 or the date of issue, whichever is later, to the following June 30. A ginseng dealer would not be allowed to purchase the plant without a current permit.

The bill defines the buying season for wild collected ginseng and requires that a ginseng dealer attempting to buy wild collected ginseng outside the buying season obtain from the collector either a completed statement indicating legal collection of ginseng from one's own land or a record of harvest season collection completed by the collector and signed by the inspector from the Agriculture Department.

The bill requires every ginseng dealer to keep a record of each purchase of ginseng collected or grown in South Carolina on a record of ginseng purchases as provided by the Agriculture Department. Records of ginseng purchases would be available for inspection by an inspector from the Agriculture Department and would be surrendered to the inspector upon issuance of an export certificate or on a periodic basis. A ginseng dealer who purchases the plant from another ginseng dealer located in South Carolina must purchase only from ginseng dealers with valid permits, and ginseng purchased from a dealer lacking a valid permit could not be certified for export of shipment out of the state.

A person seeking to export ginseng out of South Carolina must obtain an export certificate from an inspector from the Agriculture Department. The bill provides criteria for obtaining the certificate.

The bill authorizes the Commissioner of Agriculture to enforce provisions of this bill and promulgate regulations necessary to enforce these provisions.

A person violating any provisions of this bill is guilty of a misdemeanor and, upon conviction, must be fined between \$100 and \$500 for a first conviction and fined not more than \$1,000 for a second or subsequent conviction.

Horse Testing (H. 3191, Rep. Chamblee). This bill would change from 6 to 12 months the period required during which a horse must have been tested for equine infectious anemia and have reacted negatively prior to entry into the state. Additionally, horses entering a public assembly of horses would be required to have reacted negatively to a test for equine infectious anemia within 12 months prior to the public assembly, as opposed to the current requirement of 6 months.

Abandonment of Wildlife Carcasses (H. 3197, Rep. Snow). This bill would make it a misdemeanor for anyone to abandon an animal carcass or for anyone to solicit, hire or procure another person to abandon an animal carcass. A person convicted of this crime would be fined a maximum of \$200 or jailed not more than 30 days.



Veterinary Medicine (H. 3225, Rep. Kirsh). This bill provides for changes in the regulations and practices of the State Board of Veterinary Medical Examiners. This bill would require that congressional district nominees for appointment to the Board by the governor be elected by licensed veterinarians residing in the nominees' respective congressional districts. Persons seeking from the Board a license to practice veterinary medicine no longer would have to submit evidence of "good moral character." The bill also deletes obsolete language pertaining to qualifications for becoming an Animal Health Technician and no longer requires that applicants for this position submit evidence of "good moral character" or good mental and physical health, or submit applications endorsed by at least 3 people. In examining applicants seeking to become certified as an animal health technician, the Board could no longer require the applicant to undergo a clinical, oral or practical examination. This bill also would authorize the Board to set fees by regulation, pursuant to the Administrative Procedures Act. Currently the fees for persons applying to the Board for certification, examination or licensing are set by statute.

#### **Education and Public Works**

Proof of Insurance (H. 3161, Rep. McAbee). Under this bill, a person whose license is suspended because of points accumulated for driving violations would not be required to provide proof of auto liability coverage for a period longer than 3 years after the termination of the suspension period. After that date, a person would incur no further obligation to furnish proof of insurance as required by the suspension, regardless of whether or not his license has been reinstated.

Fine for Lapsed Coverage (H. 3167, Rep. Kirsh). This bill would lower the daily fine for lapsed auto liability insurance coverage from 5 dollars to 1 dollar and lower the maximum cumulative fine imposed for lapsed coverage for a first offense from \$200 to \$30. Additionally, the fine would be remitted to the reinsurance facility and included in determination of the recoupment fee.

Vehicle Registration Fee (H. 3172, Rep. Vaughn). This bill would require anyone who leases a private passenger-carrying vehicle and is handicapped or age 65 or older to pay a vehicle registration fee of \$10.

Citadel Board of Visitors (H. 3202, Rep. Kirsh). This bill would delete the requirement that the 11 appointed members of Citadel's Board of Visitors be graduates of that institution.

Medal of Honor License Plates (H. 3208, Rep. Spearman). Current law authorizes, at no charge, special license plates for Medal of Honor recipients who own a motor vehicle, transfer of that



plate to another vehicle of the same weight class owned by the recipient, and the exemption of the recipient's vehicle from state, county and municipal taxes. This bill would extend those privileges to Medal of Honor recipients who lose a motor vehicle.

Vehicle Inspection Fees (H. 3229, Rep. J. Brown). This bill would increase the maximum charge for vehicle safety inspections from \$2.50 to \$5.50.

Covered Vehicle Loads (H. 3235, Rep. Rudnick). This bill would provide punishment for anyone convicted of violating the current state law which prohibits vehicles from being driven or moved on the state's public roads unless the contents of the vehicle are secured so that they will not escape from the vehicle. Violation of this provision is a misdemeanor, and upon conviction the offender must pay a \$100 fine.

### Judiciary

Initiative Petition (H. 3160, Rep. Corning). This joint resolution seeks to amend the State Constitution so as to allow state voters to enact laws and constitutional amendments through initiative petition. In order for laws or constitutional amendments to be enacted through this process, several requirements would have to be met: The petition would have to contain the full and correct copy of the proposed law or constitutional amendment and be signed by at least 15 percent of registered voters eligible to vote during the last general election. Anyone signing the petition would have to provide their name, address, precinct and voter identification number. The petition would have to be presented to the State Election Commission at least 60 days prior to the general election. If the Commission finds that the petition meets the requirements listed above, the Commission would submit the proposed law or constitutional amendment to the voters at the next general election. If a majority of voters at that general election approve the proposed law or constitutional amendment, the measure would become, respectively, a law of the state or part of the Constitution. The State Election Commission would certify the result to the Code Commissioner, who would assign the law or amendment to an appropriate place in the Code of Laws or the Constitution.

Use of Weapon in a Violent Crime (H. 3164, Rep. Govan). Under this bill, the additional sentence imposed on someone convicted of a violent crime who possesses or uses a firearm or knife during the commission of that crime is increased from 5 to 10 years.

Defrauding a Public Body (H. 3170, Rep. Kirsh). This bill would make it a misdemeanor for anyone who, with intent to defraud a public body, uses or authorizes the use of public employees, funds or property valued at more than \$200 for private use or



benefit. Anyone convicted for this crime would be fined a maximum of \$5,000, imprisoned up to 5 years, or both.

Fraudulent Acquisition of Public Assistance (H. 3175, Rep. Davenport). This bill would make it unlawful for anyone to obtain, attempt to obtain, or help another person obtain or attempt to obtain public assistance (e.g., Food Stamps, Medicaid) to which the person is not entitled except as authorized by federal and state law or regulations. A person violating these provisions is guilty of a felony if the value of assistance acquired or used is worth \$1,000 or more, and upon conviction must be fined up to \$5,000, imprisoned up to 5 years, or both. If the value of assistance acquired or used is less than \$1,000, the person is guilty of a misdemeanor and upon conviction must be fined a maximum of \$500, imprisoned for a maximum of 3 years, or both; however, if the assistance acquired or used is worth not more than \$200, the case must be prosecuted in magistrate's court and the punishment cannot be more than is permitted by law without presentation or indictment of the grand jury.

The bill would also make it unlawful for a person or entity to issue or use Food Stamp program benefits in a manner not authorized by federal and state laws or regulations. A person or entity violating these provisions would be guilty of a felony if the value of the food stamp benefits used in an authorized manner is worth \$100 or more and, upon conviction, be fined no more than \$10,000, imprisoned for up to 5 years, or both. If the value of food stamp benefits is worth \$100 or less the person would be guilty of a misdemeanor and, upon conviction, be fined up to \$1,000, imprisoned for up to 1 year, or both. The person or entity may also be suspended from participation in the Food Stamp Program for a period as provided by federal law or regulation.

In prosecuting cases of public assistance fraud as noted in this bill, the State could consider each benefit paid a separate offense or could elect to consider the cumulative total of all benefits paid as one offense.

Municipal Utility Regulation (H. 3179, Rep. Wright). Under current state law, the Public Service Commission is prohibited from regulating public utilities owned or operated on behalf of a municipality, regulating contracts made by a municipality with its customers, or regulating rates charged by a municipal plant to its customers, even if these utilities reside or operate outside the municipality's corporate limits and the customers live outside the municipality. This bill would allow the Commission to regulate public utilities owned or operated on behalf of a municipality outside its corporate limits and would also allow the Commission to regulate contracts made by municipalities with its customers located outside the municipality's corporate limits.

Sexually Violent Predators (H. 3193, Rep. Snow). This bill provides procedures for the confinement and commitment of persons determined to be sexually violent predators. The bill defines



sexually violent predator and provides that when it appears a person may meet this criteria as provided by state law, the agency with jurisdiction over the person must refer the person in writing to the solicitor of the county where the person was charged. The agency must do this 3 months prior to the anticipated release from total confinement of a person who has been convicted of a sexually violent offense or who is found to have committed a sexually violent offense as a juvenile, or 3 months prior to the release of a person charged with a sexually violent offense and determined to be incompetent to stand trial or of a person who has found not guilty by reason of insanity of a sexually violent offense. The agency would inform the solicitor of the person's name, identifying factors, anticipated future residence, offense history, and provide documentation of institutional adjustment and treatment received. The agency would be immune from liability for any good faith conduct in providing this information to the solicitor.

When it appears that the term of confinement of a person convicted of a sexually violent offense or of a person found to have committed a sexually violent offense as a juvenile is about to expire or has expired, or that a person charged with a sexually violent offense has been determined incompetent to stand trial or has been found not guilty by reason of insanity and is about to be released or has been released, and it appears that the person could be a sexually violent predator, the solicitor of the county where the person was convicted or charged could file a petition alleging that the person is a "sexually violent predator" and state facts to support the allegation. Upon filing of this petition, the court would determine if probable cause exists to believe that the person named in the petition is a sexually violent predator. If the court determination is made, the judge would order the person to be transferred to a facility for an evaluation as to whether the person is a sexually violent predator.

No later than 45 days after filing of the petition, the court would conduct a trial to determine whether the person is a sexually violent offender. The person, solicitor or judge could ask for a trial by jury, but if no request for this were made, the trial would be conducted by the court. If the court or jury determines that the person is a sexually violent predator, the person would be committed to the custody of the Department of Mental Health until the time that the person's mental abnormality or personalized disorder is so changed that he is safe to be at large.

Anyone committed for being a sexually violent predator would be examined for his mental condition at least once every year. If the commissioner of the Department of Mental Health determines that a person's mental abnormality or personality disorder has changed to the extent that the person is unlikely, if released, to engage in predatory acts of sexual violence, the commissioner may authorize the person to petition the court for release. The court would order a hearing within 45 days following receipt of the petition, and the hearing upon request of the petitioner or solicitor may be conducted before a jury. At the hearing, the burden of proof would rest with the solicitor to show that because



petitioner's mental abnormality or personality disorder it would be unsafe to release him. The person committed also could petition the court for release without the commissioner's approval. The bill provides criteria for conducting a hearing when petition is made by the petitioner and provides that under this hearing as well the burden of proof rests with the solicitor to prove that the committed person's mental abnormality or personality disorder makes it unsafe to release him.

The bill authorizes the Department of Mental Health to release to the public relevant information concerning a committed sexually violent predator.

Pledges for Judicial Posts (H. 3195, Rep. Corning). Current state law prohibits a candidate for judicial office from directly seeking the pledge of a legislator to vote for that candidate until the qualifications of all candidates for that office have been determined by the judicial screening committee. This bill would extend that prohibition to judicial candidates who indirectly seek a legislator's pledge. This bill states that "indirectly seeking a pledge" means the candidate or someone acting on his behalf or request asks a person to contact a legislator seeking a pledge on behalf of a candidate.

Judicial Nominating Commission (H. 3198, Rep. McElveen). This joint resolution seeks to amend the Constitution so as to require the General Assembly to establish a Judicial Nominating Commission to consider the qualifications and fitness of candidates for all judicial positions which are filled by election of the General Assembly---namely, Family Courts, Circuit Courts, the Court of Appeals and the Supreme Court. The commission would nominate the best qualified applicants for a court vacancy, and the General Assembly would select judges and justices from among the commission's nominees to fill a vacancy. A person found "not qualified" by the commission would be ineligible for election to these judicial positions.

Judicial Nominating Commission (H. 3199, Rep. McElveen). Under measure, which would take effect upon ratification of a constitutional amendment (H. 3198 as listed above), a Judicial Nominating Commission would be established to assist the General Assembly in the selection of judges and justices for Family Court, Circuit Court, the Court of Appeals and the Supreme Court. This commission would consist of 7 members, with 3 members elected by the House, 3 members elected by the Senate, and 1 member appointed by the governor. The member appointed by the governor could not be a lawyer or a member of the General Assembly. Of the 3 members selected from each chamber of the General Assembly, 2 members would have to be active members of the South Carolina Bar, admitted to practice for at least 5 years. These 2 members could not be members of the General Assembly. The remaining member chosen from each chamber could not be a lawyer. The terms of the commission members would be staggered and last 3 years, and except for initial



appointments or members elected for terms 2 years or less, no commission members would be eligible to succeed themselves.

The bill states that no commission member would be eligible for selection as a judge or justice of the state court system while serving on the commission or for 3 years after he ceases to be a member of the commission. Additionally, members of the General Assembly would be ineligible for selection as a judge or justice of the state court system during their terms in office and for a year after leaving office.

The bill states that selections to the commission should to the extent possible represent the ethnic and gender composition of the state, and that lawyer selectees to the commission should reflect a cross section of the Bar, taking into account age, law firm size, type of practice, and other demographic factors. The commission would meet at least once annually, organize and adopt rules to govern its proceedings, and employ the clerical and stenographic assistance necessary to carry out its duties. The commission would be responsible for determining when vacancies are to occur in the Family Court, Circuit Court, Court of Appeals or the Supreme Court (hereafter called "courts") and investigating in advance the qualifications of those seeking nomination.

The commission would announce vacancies and forthcoming vacancies for the courts. Those seeking nomination as justice or judge would apply to the commission for consideration, and the commission also could submit names of those it desires to consider for nomination. The commission would announce the names of those who have applied or agreed to be considered and also would establish procedures for receipt of public statements in support or in opposition to any candidates and public hearings when testimony is taken as evidence received. The commission would meet in executive session only when necessary.

In determining the suitability of candidates for the courts, the commission would investigate several factors, among them constitutional qualifications, ethical fitness and experience. The commission could receive judicial evaluation information as conducted by the South Carolina Bar on each candidate and could order the Bar to do a survey on the candidate if one had not already been conducted.

After consideration of the ability and suitability of candidates for judicial vacancies, the commission would submit to the General Assembly its list of nominees, with recommendations as to whether a candidate is highly qualified, qualified or not qualified for the judicial office he is seeking. The nominating process would recommence if the commission could find no candidate highly qualified or qualified for the judicial post. The General Assembly would be entitled to reject all candidates nominated by the commission, at which time the commission would begin its nominating process again.

The bill would prohibit candidates seeking election or re-election to a judicial post, or persons on behalf of the candidates, from lobbying or seeking pledges from members of the General Assembly for election to the post until the commission had



submitted its nominations to the General Assembly. Furthermore, members of the General Assembly would be prohibited from pledging their vote, directly or indirectly, for a candidate for a court vacancy until the commission had submitted its nominations to the General Assembly.

DUI Plea Bargains (H. 3201, Rep. Marchbanks). Under this bill, when a sentence is imposed on someone convicted of DUI, any previous convictions for DUI or substantially similar offenses cannot be disregarded in a plea bargain on the DUI charge.

DUI Criminal Proceedings (H. 3204, Rep. Kirsh). This bill would lower the level of blood alcohol content necessary to make inferences in a criminal prosecution of DUI. This bill would lower the blood alcohol content necessary to presume conclusively that a person was not under the influence of alcohol from .05 percent or less to .03 percent or less. The range for which a blood alcohol content would not infer whether a person was or was not under the influence of alcohol would be lowered from greater than .05 percent but less than .10 percent to greater than .03 percent but less than .08 percent. The minimum blood alcohol content necessary to infer that a person was under the influence of alcohol would be lowered from .10 to .08 percent, and the bill would require that it be inferred that anyone with a blood alcohol content of .08 or greater was under the influence of alcohol. Current law states that it may be inferred that a person was under the influence of alcohol if his blood alcohol content was .10 or greater.

The bill also lists a transition period for these reductions; for example, the minimum amount of blood alcohol content necessary to infer that someone was under the influence of alcohol would be lowered to .09 percent effective in 1993, and on January 1, 1994 the ranges as proposed in this bill would take effect.

Contractor Contributions (H. 3206, Rep. Corning). This bill would prohibit any person who receives a referral for the rendering or providing of professional services with the state or its political subdivisions from making a contribution to an official after receiving the referral or investing in a financial venture in which the public official had an interest if that official was in a position to act on the referral. No public official or employee could solicit campaign contributions or investments in exchange for a referral or promise of a referral. The bill defines "person" as an individual, partnership, association, corporation or any other legal entity or organization.

Qualification of Sheriffs (H. 3209, Rep. Wilkins). This bill would expand the qualifications necessary for becoming a sheriff in South Carolina. In place of the current requirement that a candidate for sheriff have at least 5 years' experience in the criminal justice field, this bill would require candidates to have either a minimum of 5 years' experience as a certified police officer, or a 2-year associate degree and 3 years' experience as a



certified law enforcement officer, or a 4-year baccalaureate degree and 1 year experience as a certified law enforcement officer. The bill specifies that the current requirement that candidates for sheriff not have been convicted of a felony, or DUI or driving with a suspended, canceled or revoked license includes convictions for these crimes in other states.

Candidates for sheriff also would be required to be fingerprinted under the direction of any law enforcement agency, and these fingerprints would have to be made available to the State Law Enforcement Division (SLED) 60 days before the close of qualification for election to that office. SLED would conduct a search of local, state and federal fingerprint files for any criminal record, and the records search would be filed with the candidate's political party.

Candidates for sheriff, instead of filing as currently provided by law with their clerk of court, would file with their political party certified copies of their birth certificate and high school diploma or certified proof of its recognized equivalent in educational training. Under this bill, the candidate also would have to file an affidavit with his political party that he has had either a minimum of 5 years' experience as a certified police officer, or a 2-year associate degree and 3 years' experience as a certified law enforcement officer, or a 4-year baccalaureate degree and 1 year experience as a certified law enforcement officer. The candidate also would swear before an officer of his political party, instead of before his clerk of court as currently provided by law, that he has met all the qualifications required for the office.

The bill states that these new requirements would not apply to any sheriff in office as of July 1, 1993, when the bill would go into effect.

Term Limits (H. 3210, Rep. Wilkins). This joint resolution seeks to amend the Constitution so as to limit the terms of members of the General Assembly and state constitutional officers. Members of the General Assembly would be limited to 12 years in office, with House members eligible to serve no more than six 2-year terms and Senators eligible for no more than three 4-year terms. All state constitutional officers other than the governor and lieutenant governor would be authorized to serve no more than three 4-year terms. (Currently the governor is limited to two terms in office.) These term limits are for life, meaning that no one could serve in these positions more than 12 years regardless of whether or not these terms were consecutive. However, those currently serving in office at the time of ratification of the constitutional amendment would be allowed to finish their terms and then serve an additional 12 years in office. Obsolete language pertaining to the election of senators from counties (as opposed to senate districts) would also be deleted.



Trespassing at Mental Health Facilities (H. 3213, Rep. Wofford). This bill would make it unlawful for a person, without legal cause or good excuse:

(a) To enter the premises of a state mental health facility after having been warned by the facility director within the preceding 6 months not to enter the premises; or

(b) To fail or refuse to leave the premises of a state mental health facility upon being requested by the facility's director or his representative to do so.

Anyone convicted of this crime would be fined a maximum of \$200 or imprisoned a maximum of 30 days. The bill states that Municipal or Magistrate Courts would have jurisdiction over these violations occurring within the respective limits of the municipal or magisterial district.

Carjacking (H. 3221, Rep. Kirsh and Simrill). This bill would make it a felony to commit the crime of carjacking. The bill defines carjacking as an action in which anyone possessing a deadly weapon, through force and violence or intimidation, steals or attempts to steal a vehicle being operated or occupied by another person. A person convicted of this felony must serve 5 to 15 years in jail if serious bodily or murder do not result from the crime. If serious bodily injury results, imprisonment would range from 10 to 25 years. If death results, the perpetrator would be punished for murder, with the corresponding sentence of death or life imprisonment, and the felony or carjacking could be considered an aggravating circumstance in determining the penalty for murder.

Interlocking Devices (H. 3232, Rep. Rudnick). This bill would authorize a court, at its option, to require that a person convicted of DUI install, at his own expense, an ignition interlocking device on his vehicle. This device prevents operation of a vehicle if the vehicle's operator has consumed alcoholic beverages. The court would prescribe the length of time the device would have to be affixed to the vehicle and would require the offender to report periodically to the appropriate law enforcement or probation officer for the purpose of verifying that the device is affixed to the vehicle. If the person convicted of DUI is unable to afford the device, the court instead could require that the offender not drive his vehicle for the period of time the device otherwise would have been installed on the vehicle.

Initiative Petition (H. 3236, Rep. Clyborne). This bill would allow state voters to enact laws and constitutional amendments through initiative petition. The bill would prohibit various measures, including but not limited to measures pertaining religious practices or reversal of judicial decisions, from being proposed through an initiative petition. Before circulating a petition proposing a law or constitutional amendment, an application signed by at least 5 registered voters would be filed with the State Election Commission. The commission would approve the application so long as it is in proper form as to text and



title for submission to the people, relates only to 1 subject, does not relate to a subject excluded from consideration, and is not substantially the same as a measure which has been qualified for submission to the people at the preceding statewide general election. The commission, within 10 days after approving an application, would provide a certified copy of the petition to each sponsor, and upon receipt of certified petition copies the sponsors would have 6 months to circulate and obtain valid signatures for the initiative petition. The bill defines a valid signature for purpose of circulating the petition.

The bill would require each initiative petition to be delivered to the State Election Commission at least 180 days prior to any general election. If the commission determines that the petition was properly circulated and signed by at least 10 percent of registered voters eligible to vote at the last general election, the commission would mark the petition as sufficient and would submit the proposed law or constitutional amendment to the state's voters at the next general election. If a majority of voters at the next general election voted in favor of the measure proposed through petition, then the proposed law or constitutional amendment would become a part of the state's statutory law or constitution. The State Election Commission would certify the results to the Code Commissioner, who then would assign the law or constitutional amendment to an appropriate place in the code of laws or the Constitution.

No law or constitutional amendment adopted by the voters could be vetoed by the governor, but a law approved by the people could be amended or repealed by the General Assembly after taking effect. A constitutional amendment adopted by voters also could be amended or repealed as provided by law. A registered voter would be allowed to appeal to the State Election Commission the results of a law or constitutional amendment submitted to voters through initiative. A defeated initiative could not be resubmitted for a vote within 4 years following defeat of the initiative.

Under this bill, it would be a misdemeanor for a person to sign another's name on a petition, sign his name more than once for the same measure at one election, or sign a petition if not registered to vote in the state. It would also be a misdemeanor for an officer or person to violate any provision of this bill. Upon conviction, the offender would be fined a maximum of \$1,000, imprisoned up to 90 days, or both. This act would be effective upon ratification of a constitutional amendment authorizing the use of initiative petition to submit proposed laws and constitutional amendments to the voters.

Term Limits (H. 3237, Rep. Clyborne). This joint resolution seeks to amend the Constitution so as to limit state representatives, state senators, state constitutional officers (excluding the governor and lieutenant governor) and officials in the state's political subdivisions to 8 consecutive years in office. Those serving in office at the time these provisions are



ratified would be allowed to finish their current term and then serve up to another 8 consecutive years in office. This amendment, if approved, also would delete obsolete language pertaining to election of state senators from counties.

Gubernatorial Appropriations Vetoes (H. 3238, Rep. Clyborne). This joint resolution seeks to amend the Constitution so as to allow the governor to veto any portion of an appropriations bill, rather than just an item or section of an appropriations bill.

Compensation of Employees of Public Bodies (H. 3241, Rep. Kirsh). This bill would require that the exact compensation of all employees of public bodies be disclosed. Under current state law, as provided under the Freedom of Information Act, only the exact compensation of various types of employees need be disclosed, for example, those employees making \$50,000 or more a year, while for other employees only the range of compensation to the employees or authorized for their positions need be revealed.

Judicial Screening Committee (H. 3244, Rep. M.O. Alexander). This bill would alter the composition of a joint legislative committee for the purpose of examining qualifications of candidates seeking nomination for a position on the state's Family Courts, Circuit Courts, Court of Appeals or Supreme Court. Under this bill, a joint committee examining qualifications of judicial candidates would consist of 3 members each from the House and Senate and 3 people elected jointly by the General Assembly. The 3 people elected jointly by the General Assembly would be limited to one 4-year term, would have to be state residents recommended by the State Bar to the General Assembly, and could not be legislators. The General Assembly could reject the names submitted by the State Bar, upon which the Bar would submit additional names as necessary to elect the 3 nonlegislator residents of the state to serve on this committee.

### **Labor, Commerce and Industry**

Contracting License Requirements (H. 3166, Rep. Kirsh). This bill deletes the requirement that a contractor furnish a financial statement certified by a Certified Public Accountant or public accountant in order to be licensed by the State Board of Contractors, and in its place requires a contractor to furnish an affidavit by the contractor of his financial condition before obtaining a license from the Board.

Unpaid Loans (H. 3173, Rep. Waldrop). This bill, which pertains to loans made by pawnbrokers, would lower from 60 days to 30 days the length of time a loan must remain unpaid after its due date before the pawnbroker could assume possession of the title of the borrower or of the pledgor to the property pledged to secure the loan.



Ownership of Beer Operations (H. 3174, Rep. Felder). Current state law, in dividing beer business operations into 3 tiers, or levels---(1) manufacturers, brewers and importers; (2) wholesalers; and (3) retailers---prohibits a person or entity in beer business operations on one tier, or anyone acting directly or indirectly on his behalf, from having ownership or financial interest in the beer business operation of another tier. Under this bill, the prohibition on ownership or financial interest in different tiers of the beer business would not apply to a person or entity with ownership of less than 1 percent of the stock in a publicly traded corporation or a consulting agreement under which the consultant has no control over business decisions and whose compensation is unrelated to the profits of the business.

Brewpubs (H. 3180, Rep. Corning). This bill would authorize the establishment and operation of brewpubs. The bill defines a brewpub as a hotel, public house, restaurant or tavern which produces on its premises or contiguous premises a maximum of 2,000 barrels a year for sale on or off its premises. The State Alcoholic Beverage Control (ABC) Commission would be authorized to issue permits to operate brewpubs. The brewpub permit would be in lieu of a permit required for the manufacture of beer or sale of beer and wine, including, but not limited to, a brewer's and retailer's permit. Alcohol taxes applicable under state law or other provisions of law pertaining to brewers and retailers would apply also to holders of brewpub permits. Sales of alcoholic liquor for consumption on a brewpub's premises would require an appropriate retailer's license, which could be granted to the holder of a brewpub permit meeting all other qualifications for the retailer's license. The brewpub permit would authorize its holder to produce on the permitted or contiguous premises a maximum of 2,000 barrels of beer a year for sale. The bill defines the conditions under which holders of brewpub permits may produce and sell their beer.

A holder of a brewpub permit could serve food or otherwise be qualified as a bona fide eating place except as required by law to qualify for the consumption of alcoholic liquor on the premises. A brewpub permittee would not be allowed to sell or ship beer produced on its premises for sale elsewhere. The ABC Commission would be authorized to promulgate regulations governing brewpubs, including regulations for fees and their amount.

Anyone violating the bill's provisions would be guilty of a misdemeanor and, upon conviction, be fined a maximum of \$1,000, or imprisoned up to 1 year, or both. In addition, the violator's permit could be suspended for a maximum of 1 year or permanently revoked.

Public Rest Rooms (H. 3230, Rep. J. Brown). This bill would require service stations which sell food or beverages to provide a rest room for public use. This bill would apply also to convenience stores which sell gasoline.



Auto Insurance Repairs (H. 3233, Rep. Rudnick). This bill would prohibit insurance companies and their agents and adjusters which issue or renew auto insurance policies in South Carolina from requiring or recommending that anyone insured under a policy use a particular company or location for providing automobile glass replacement or repair services insured by the policy. Insurance companies and agents and adjusters would be allowed to provide the insured person or entity with a list of nearby businesses which provide glass repair or replacement services and which are not affiliated with each other with regard to pricing arrangements. However, the insurance company, agent or adjuster could not require or recommend that the insured use one of the businesses named on the list and would be required to pay the cost, based on no less than the locally lowest and typically prevailing market price, for glass replacement or repair if the insured sought the service at a non-listed facility. If the insured sought glass repairs or replacement at a non-listed location, the insurance company could not impose any requirements upon the insured person which would not be required if the insured person sought to use a listed location.

Gasoline Labeling (H. 3240, Rep. Kirsh). This bill would require the Department of Agriculture to test and label all gasoline mixed with ethyl, methyl or another form of alcohol. Furthermore, it would be mandatory for the specific amount of ethyl, methyl or other form of alcohol to be labeled on each pump displaying this type of mixture.

Motor Vehicle Insurance Freedom of Choice (H. 3246, Rep. H. Brown). This bill would give motorists the right to choose the kinds of personal protection available in case of an automobile accident and the amount of financial protection they deem appropriate and affordable. It would eliminate the requirement that motorists buy traditional fault insurance, and instead motorists could have the opportunity to buy a policy to protect themselves and their families regardless of fault in an auto accident. However, motorists could continue to retain the right to sue and be sued in auto accident liability cases. This concept of auto insurance is commonly referred to as "no fault choice."

Under this system, a motorist who retains the traditional system of insurance and is involved in an accident with another motorist would retain the right to sue and be sued based on fault. Motorists choosing non-fault coverage and who are involved in an accident with a motorist who has traditional fault liability insurance would be promptly compensated for their economic losses, regardless of fault. However, these no-fault motorists also could sue the motorist at fault for economic damages if the damages exceed their personal protection limits and for non-economic damages if the injuries exceed the verbal threshold. No fault drivers who are at fault in an accident could still be sued for liability to others.

Two no-fault drivers who are involved in an accident would be promptly compensated for their economic losses regardless of fault.



In this case, the 2 motorists would not be able to sue for noneconomic damages based on fault unless the damages exceed a verbal threshold. However, if either motorist suffers a loss in excess of his policy's benefits, he could sue the person at fault for uncompensated economic loss.

If a motorist with fault coverage is involved in an accident with an uninsured motorist, the insured motorist could be compensated for losses under the uninsured motorist provisions of his policy based on fault and could sue the uninsured motorist for full damages based on fault. The uninsured motorist would forfeit any right to claim for property damage up to \$10,000 or to claim for non-economic loss against the driver with fault coverage except when the motorist with fault coverage was driving under the influence of drugs or alcohol or had committed intentional misconduct and was at fault in the accident. An uninsured motorist could claim against the motorist with fault insurance for economic losses based on fault.

If a person with no fault coverage is involved in an accident with an uninsured motorist, the insured would be compensated promptly for economic losses under his policy regardless of fault and would retain the right to sue the uninsured motorist based on fault if the injury exceeds the verbal threshold. The uninsured motorist would forfeit any right to claim for the first \$10,000 of property damage or for injury against the no fault driver, except when the no fault driver was driving under the influence of alcohol or drugs or had committed intentional misconduct and was at fault in the accident. The uninsured motorist, however, could sue the insured driver for economic losses based on fault.

Verbal threshold as defined in the bill is an injury consisting of permanent and serious disfigurement, permanent and serious bodily injury, permanent and serious loss of an important bodily function, or death.

The legislation directs that no fault policies be set at a rate 15 percent lower than the rates of traditional fault policies. This rate could not be raised or renewed between January 1, 1994 and December 31, 1994. No fault drivers would be required to carry mandatory \$5,000 property damage coverage. Basic personal protection benefits (no fault) would cover an aggregate limit of \$15,000 per person arising out of one accident. This coverage would consist of medical expenses, loss of income, replacement services and death benefits of \$5,000. No fault drivers would have the option of purchasing additional uninsured and underinsured driver coverage; however, a no fault driver could not collect on these coverages if he is at fault in an accident.

Insurers providing no fault coverage could require a covered driver to obtain care for injuries from a preferred provider or a designated managed health care system, if the injured driver consents to being subject to this care at an appropriately reduced premium. Incentives also could be offered to no-fault drivers to use seat belts, air bags and child restraint seats.

This bill lifts the mandate to write physical damage coverage and would abolish the State Reinsurance Facility effective October



1, 1994, to be replaced by the newly-created South Carolina Joint Underwriting Association. The recoupment fee would not be charged after June 30, 1997 for drivers who qualify for a safe driving discount. The underwriting association would offer 4 rates.

Drivers who have retained their safe driving discount would be allowed to drive without insurance upon the payment of \$250. This would allow them to drive without insurance without violating the Financial Responsibility statutes. The fee would go into the uninsured motorist fund. All other drivers would be required by law to carry insurance.

Under this bill, four rates would replace the current two rates---the objective rate and the base rate---now in the law. The 4 rates would be the preferred rate, the standard rate, the non-preferred rate and the substandard rate. Anyone who has maintained a safe driver discount for the past 10 years must be given the preferred rate and could not be ceded to the Joint Underwriting Association. A person who had lost the safe driver discount could only qualify for the non-preferred and substandard rates.

The bill also increases fines for driving without insurance and provides for public service requirements in addition to fines imposed for this violation.

#### **Medical, Military, Public and Municipal Affairs**

Public Records (H. 3168, Rep. Kirsh). This bill would increase the minimum fine imposed on anyone convicted for removing, altering or destroying a public record, as defined in the Freedom of Information Act, from \$200 to \$1,000.

Patient Referrals (H. 3205, Rep. Corning). This bill would prohibit a licensed health care professional from referring a patient for treatment or testing to a facility or entity in which the health care professional has a financial interest unless the professional notifies the patient in writing of the nature of the financial interest. This prohibition would not apply to emergency referrals or admissions.

Public Assistance Benefits (H. 3207, Rep. Corning). This bill would prevent any more children from being included in a family size, for purpose of determining AFDC benefits a family is to receive, than the number of children in a family at the time eligibility for AFDC was determined. This would not apply, however, to a child born into a family within 10 months of the date eligibility is determined or to a child born before May 1, 1995 into a family receiving AFDC benefits or for whom eligibility is determined as of July 1, 1994. A family which becomes ineligible for or which ceases receiving AFDC benefits and which later applies for benefits could only, for purpose of receiving benefits, include the number of children included in the family size at the time benefits ceased unless the family had not received AFDC benefits for a year or longer.



The bill also would require mothers of families with 2 or more children receiving or seeking AFDC benefits to consent to surgically-implanted Norplant or other similar reversible birth control device of at least 5 years' effectiveness as a condition for obtaining or continuing to obtain AFDC benefits. A woman receiving a surgically-implanted birth control device as required by this bill would be eligible for Medicaid for the procedure.

### **Ways and Means**

Low Income Housing Tax Credit (H. 3162, Rep. Cobb-Hunter). This bill would authorize anyone filing a state income tax return to claim a tax credit equal to 20 percent of all construction costs incurred for housing construction which qualifies for federal Housing and Urban Development low income subsidies. This tax credit, which would not exceed \$50,000 in a taxable year, would apply to all tax years after 1993.

Bonded Indebtedness (H. 3169, Rep. Kirsh). This joint resolution seeks to amend the Constitution so as to increase the amount of general obligation debt a county, municipality or special purpose district could incur for its corporate purposes from 8 percent to 12 percent of the assessed value of the county's, municipality's or special purpose district's taxable property.

Zero-Based Budgeting (H. 3171, Rep. Corning). Concerned that the growth of the budgets of state agencies, boards, commissions, departments and institutions has not been accompanied by systematic and comprehensive legislative review of agency budgeting decisions, supporters of this bill propose a systematic legislative review of 24 agency budgets through "zero-based budget" analysis. Through this analysis, the General Assembly would obtain information essential to the consideration of appropriations bills.

Under this bill, a joint committee named the Joint Committee for Budget Review, consisting of selected members of the House Ways and Means and Senate Finance Committees, would conduct zero-based budget review of 24 state agency budgets. The bill lists the state agencies to be examined by this process and states that those agencies' budgets would be reviewed through "zero-based budget" analysis every 8 years. The reviews would be conducted on a staggered basis; as examples, the State Department of Education's budget would be subject to this analysis the first year following the passage of this act and every 8 years thereafter; the State Department of Mental Health's budget would be subject to this analysis the second year following passage of the act and every 8 years thereafter, and so on, with all the designated agencies having their initial analysis conducted within 8 years following passage of this act.

An agency subject to zero-based budget analysis review would be given a minimum of 15 days notice by the chairman of the Joint Committee for Budget Review of the time and place of the review. At



the review the organization would submit to the Joint Committee a detailed analysis by budget classification of the funds required for the agency's recurring expenses and anticipated additional expenses. Each agency would justify to the Joint Committee all of its recurring expenses for the current fiscal year and new or additional expenses proposed for a succeeding fiscal year if the agency had made a request for new or additional funding to the State Budget and Control Board. Agency officials would furnish all material deemed necessary by the Joint Committee to conduct the review.

The bill states that these "zero-based budget" reviews must be conducted and completed between September 1 and December 1 in odd-numbered years and between July 1 and October 15 in even-numbered years. The Joint Committee would make written findings with respect to each agency reviewed, including recommendations for increases or reductions in funding levels and would refer these findings to the House Ways and Means and Senate Finance Committees.

SHIMS Funding (H. 3211, Rep. Corning). This bill would delete the requirement that projects selected for funding under the Strategic Highway Plan for Improving Mobility and Safety Program (SHIMS) be selected in part based on socioeconomic factors. Under current state law, the criteria for selecting projects to be funded by SHIMS is based partially on socioeconomic factors (e.g., farm acres per square mile, per capita income) and partially on transportation factors (e.g., daily traffic, grades and curves, and economic benefits).

Early Retirement Health Care Costs (H. 3234, Rep. Rudnick). Under current state law, members of the state retirement system who seek early retirement after 25 years' service may receive full retirement pension normally distributed after 30 years' service if they purchase additional service credits equal to the number of years early they retired. Members with 25 years' service who purchase the service credits, however, under current state law must bear the full cost of health and dental coverage for the time equal to the period of service credit purchased. Under this bill, however, the cost of health coverage for these early retirees who purchase additional service credit would be split between the retiree and the State, with the retiree picking up the employee cost of health and dental coverage and the State paying the employer cost of the coverage. This measure would apply to payments made after August 25, 1992, and employer share payments made by employees after that date would be refunded upon application to the retirement system.

Free Use of State Parks (H. 3242, Rep. Vaughn). This bill amends current state law so as to provide that the free use of state park facilities, as permitted for the blind, disabled and those over 65, also includes no admission charge to enter the park itself.



Seeking of State Positions (H. 3243, Rep. Vaughn). This bill would prohibit legislators, while in office and for 2 years after leaving office, from being elected to a salaried state office or position. This would not, however, apply to legislators in office at the time this measure went into effect. The bill defines "salaried office or position" as an office or position in which one receives compensation for services rendered but does not include the receipt of per diem, mileage or subsistence received in the performance of responsibilities.

Solicitation for State Positions (H. 3245, Rep. J. Bailey). This bill would prohibit a legislator from soliciting for himself the pledge of another legislator for a full-time salaried state position, which would include (but not be limited to) any judge of the Family, Circuit, or Court of Appeals, justice of the Supreme Court, or member of the Workers' Compensation Commission. Anyone violating these provisions is guilty of a misdemeanor and, upon conviction, must be fined not more than \$5,000, imprisoned for not more than a year, or both.

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